

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MINERMENT S.p.A.,

Plaintiff,

08 CV

-v-

**VERIFIED COMPLAINT**

GRAINFIELDS L.L.P.,

Defendant.  
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Plaintiff, MINERMET S.p.A. (hereinafter "MINERMET"), by its attorneys,  
CHALOS, O'CONNOR & DUFFY, L.L.P., as and for its Verified Complaint against  
Defendant, GRAINFIELDS, L.L.P. (hereinafter "GRAINFIELDS"), alleges upon  
information and belief as follows:

**JURISDICTION**

1. The Court has subject matter jurisdiction by virtue that the underlying  
claim herein is an admiralty and maritime claim within the meaning of Rule 9(h) of the  
Federal Rules of Civil Procedure and within the admiralty and maritime jurisdiction of  
this Court under 28 U.S.C. § 1333.

**THE PARTIES**

2. At all times material hereto, Plaintiff, MINERMENT, was and still is a  
foreign business entity duly organized and existing pursuant to the laws of a foreign  
country, with an office and principal place of business at Via Durni 27, 20122 Milano,  
Italy.

3. At all times material hereto, Defendant, GRAINFIELDS, was and still is a  
foreign business entity duly organized and existing pursuant to the laws of a foreign

country, with an office and principle place of business at 139 Kingston Road, Wimbledon, London, United Kingdom.

FACTS AND CLAIM

4. On or about April 17, 2007, MINERMET and GRAINFIELDS entered into a contract for the sale, purchase and shipment of certain Ukrainian feed peas in bulk.

5. This contract, incorporating the terms and conditions of the GAFTA No. 25, is a maritime contract.

6. Pursuant to the terms of the agreement, GRAINFIELDS was to deliver, via a single deck bulk carrier suitable for grab discharge, a total of three thousand (3,000) metric tons of cargo, at a rate of US\$ 213 per metric ton, which was later reduced to US\$ 209.81 per metric ton, due to a request by GRAINFIELDS for an extension of time to deliver the cargo.

7. However, despite GRAINFIELDS's obligations pursuant to the contract, GRAINFIELDS failed to carry and deliver the cargoes.

8. As a result, plaintiff, MINERMET, was damaged. At the time of GRAINFIELDS's breach of the contract, the average market cost for this same cargo was US\$ 359 per metric ton. Therefore, since the difference in the contract price (US\$ 209.81 per metric ton) and the market price (US\$ 359.00 per metric ton) was US\$ 149.19 per metric ton, MINERMET was damaged US\$ 447,570.00 as a result of GRAINFIELDS failure to perform its obligations under the agreement.

9. Despite MINERMET's repeated demands for payment by GRAINFIELDS, defendant GRAINFIELDS, in breach of the terms of the agreement, has

failed, neglected and/or otherwise refused to pay plaintiff, MINERMET, US\$447,570.00, the sum due and owing MINERMET.

10. In accordance with the terms of the agreement, disputes arising out of the agreement are to be resolved by way of GAFTA Nr. 125 maritime arbitration proceedings held before arbitrators who are experts in maritime matters. GAFTA proceedings on the merits are pending against GRAINFIELDS now, and various submissions have been exchanged.

11. Furthermore, MINERMET has, and will, incur additional legal fees and costs, which will be an amount not less than US\$ 150,000.00. Therefore, MINERMET's total claim against GRAINFIELDS is US\$ 597,570.00.

#### BASIS FOR ATTACHMENT

12. Defendant cannot be found within this district within the meaning of Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, but Defendant is believed to have or will have during the pendency of this action, certain assets, accounts, freights, monies, charter hire, credits, effects, payment for bunkers, goods or services, bills of lading, cargo and the like belonging to or claimed by the Defendant within this District held by various parties, as garnishees, including by not limited to electronic fund transfers.

13. Plaintiff believes that some of these assets, to wit: accounts; bank accounts; monies; charter hire; credits; debts owed to the defendants; effects; payments for bunkers, cargo, goods or services; debts; unmatured debts; bills of lading; payments from the purchasers of cargoes; freight and/or hire payments to or from owners of vessels, or charterers, to Defendant, GRAINFIELDS, and/or Clearing House Interbank

Payment System (CHIPS) credits or funds being transferred through intermediary banks, are located in this District in the possession of garnishees, including, but not limited to, ABN AMRO BANK, American Express Bank, Bank of America, Bank of China, Bank of New York, Bank of Tokyo Mitsubishi UFJ Ltd., Barclay's Bank, BNP Paribas SA, Calyon, Calyon Financial, Inc., Citibank N/A, Credit Suisse Securities (USA) LLC, Deutsche Bank, HSBC (USA), JPMorgan Chase Bank, Mashreqbank, Societe Generale, Standard Chartered Bank, UBS AG, U.S. Bank, Wachovia Bank, Wells Fargo Bank, CHIPS and possibly other banks or financial institutions located in New York.

WHEREFORE, Plaintiff prays:

A. That process in due form of law issue against the Defendant, citing them to appear and answer under oath all, and singular, the matters alleged in the Verified Complaint;

B. That since the Defendant cannot be found within the District, as set forth in the Declaration of George M. Chalos, and pursuant to Rule B and Rule E of the Supplemental Rules of Certain Admiralty and Maritime Claims, this Court issue an Order directing the Clerk of Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B and Rule E of the Supplemental Rules for Certain Admiralty and Maritime Claims, attaching all of Defendant's tangible or intangible property or any other funds held by any garnishees in the district which are due and owing, or other property of the Defendant, up to the amount of USD \$597,570.00 to secure and satisfy the Plaintiff's claims, and that all persons claiming any interest in the same be cited to appear and pursuant to Supplemental Admiralty Rule B and Rule E answer the matters alleged in the Complaint;

C. That Plaintiff may have such other, further and different relief as may be just and proper.

Dated: Port Washington, New York  
January 28, 2008

CHALOS, O'CONNOR & DUFFY, L.L.P.  
Attorneys for Plaintiff  
MINERMENT S.p.A.

By: 

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MINERMET S.p.A.,

Plaintiff,

08 CV

v.

**VERIFICATION OF COMPLAINT**

GRAINFIELDS L.L.P.,

Defendant.  
-----X

Pursuant to 28 U.S.C. §1746, GEORGE M. CHALOS, Esq., declares under the penalty of perjury:

1. I am a Member of the law firm of CHALOS, O'CONNOR & DUFFY, L.L.P., counsel for the Plaintiff, MINERMET S.p.A., herein;
2. I have read the foregoing Verified Complaint and know the contents thereof; and
3. I believe the matters to be true based on documents and information obtained from employees and representatives of the Plaintiff through its agents, underwriters and attorneys.
4. The reason that this verification was made by deponent and not by the Plaintiff is because Plaintiff is a foreign corporation, whose officers are not in this district, and whose verification cannot be obtained within the time constraints presented by the circumstances of this case.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Port Washington, New York  
January 28, 2008

CHALOS, O'CONNOR & DUFFY, L.L.P.  
Attorneys for Plaintiff  
MINERMET S.p.A.

By: 

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